

MARYLAND REGISTER

## Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
		Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/21/2015

2. COMAR Codification

**Title Subtitle Chapter Regulation**

10 09 84 06 and .23

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

Michele Phinney

Telephone Number

410-767-5623

**Mailing Address**

201 W. Preston Street

**City State Zip Code**

Baltimore MD 21201

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michele.phinney@maryland.gov

5. Name of Person to Call About this Document

Michael Cimmino

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410-767-0579

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michael.cimmino@maryland.gov

**6. Check applicable items:**

☐ New Regulations

☒ Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: June 9, 2015.

☐ Repeal of Existing Regulations

☐ Recodification

☐ Incorporation by Reference of Documents Requiring DSD Approval

☐ Reproposal of Substantively Different Text:

: Md. R  
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

☐ Yes ☒ No

**8. Incorporation by Reference**

☐ Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

☐ OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

☐ OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

☐ Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by David Lapp, Assistant Attorney General, (telephone #410-767-5292) on June 15, 2015. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Van T. Mitchell

**Title**

Secretary

**Telephone No.**

410-767-6500

**Date**

July 6, 2015

# **Title 10**

## **DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

### **Subtitle 09 MEDICAL CARE PROGRAMS**

#### **10.09.84 Community First Choice**

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105, Annotated Code of Maryland

#### **Notice of Proposed Action**

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The Secretary of Health and Mental Hygiene proposes to amend Regulations .06 and .23 under COMAR 10.09.84 Community First Choice.

#### **Statement of Purpose**

The purpose of this action is to specify dates by which participant-employed providers of personal assistance may no longer enroll, nor bill, and by which plans of service may no longer include participant-employed providers. It also establishes a requirement for agencies that provide personal assistance services to collect and maintain documentation to verify services rendered.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

The proposed action has no economic impact.

#### **Economic Impact on Small Businesses**

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

The proposed action will phase out participation by participant-employed providers of personal assistance services. All personal assistance services will therefore be provided by agencies, which are virtually all small businesses. This means that enrolled agencies may have increased opportunities to provide services, and that more small businesses may seek to enroll as agency providers.

#### **Impact on Individuals with Disabilities**

The proposed action has an impact on individuals with disabilities as follows:  
The proposed action affects providers of services to individuals with disabilities, but should have no significant impact on eligibility, access, or amount of services received by individuals.

### **Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to [dhmh.regs@maryland.gov](mailto:dhmh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through September 21, 2015. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

Although the hourly reimbursement rate for agency providers of personal assistance services is higher, Department expenditures on behalf of participant-employed services for employer taxes, fiscal intermediary services, nurse monitoring, and case management all add up making costs about the same for either type of provider.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Attached Document:

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## Subtitle 09 MEDICAL CARE PROGRAMS

### 10.09.84 Community First Choice

Authority: Health-General Article, §§2-104(b), 15-103, and 15-105, Annotated Code of Maryland

10.09.84.06 (6/9/15)

#### **.06 Specific Conditions for Provider Participation — Personal Assistance Services.**

A.—B. (text unchanged)

C. An agency that provides personal assistance services shall:

(1)—(8) (text unchanged)

(9) Apply for a new license if applicable, whenever ownership is to be transferred from the person or organization named on the license to another person or organization in time to assure continuity of services; [and]

(10) Submit a Medicaid provider application to the Department if the new owner chooses to participate in the Program; *and*

(11) *At least monthly, collect and maintain the participant's signature, or that of the participant's representative when applicable, verifying services rendered.*

D.—F. (text unchanged)

G. *A participant-employed provider may not be enrolled on or after July 1, 2015.*

10.09.84.23

#### **.23 Limitations.**

A.—B. (text unchanged)

C. The Program does not cover the following services:

(1)—(5) (text unchanged)

(6) Personal assistance services provided outside the State for more than 14 days per calendar year; *or*

(7) *Personal assistance services rendered by a participant-employed provider on or after October 1, 2015.*

D. *The Department may not accept nor approve plans of service with participant-employed providers on or after August 1, 2015.*

**VAN T. MITCHELL**

**Secretary of Health and Mental Hygiene**